

#11 aw
9-16-05

Attorney Docket No. 9204-000002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No. _____

| | | |
|-----------------|--|---|
| Group Art Unit: | 2164 |) |
| | |) |
| Examiner: | Richard Fults |) |
| | |) |
| Applicants: | Sutton et al |) |
| | |) |
| Serial No.: | 09/420,033 |) |
| | |) |
| Filed: | October 18, 1999 |) |
| | |) |
| Title: | A METHOD AND SYSTEM FOR TRANSACTING A PURCHASE USING A CREDIT CARD FROM SELLER |) |
| | |) |

BRIEF ON BEHALF OF APPELLANTS

This is an appeal from the action of the Examiner dated March 12, 2002, finally rejecting Claims 1-11 of the present application. Copies of the appealed claims are attached as an appendix.

I. Real Party In Interest

The real parties in interest in the present application are David B. Sutton and Douglas E. Blasiman, the inventors

II. Related Appeals and Interferences

There are no known related appeals or interferences which will directly affect or be directly affected by or otherwise have a bearing on the Board's decision in the pending appeal.

III. Status Of The Claims

Claims 1-11 are pending in the present application. Of the pending claims, Claims 1-11 stand rejected and are appealed.

IV. Status Of Amendments

A response to the Examiner's final rejection of the pending claims was filed on July 12, 2002. At this time, Applicant has not yet received an Advisory Action from the Examiner. However, Applicant's response to the final rejection did not contain any amendments to the pending claims, and thus Claims 1-11 stand rejected as presented in attached appendix and are appealed.

V. Summary Of The Invention

Applicants' invention is directed generally to generally directed to a method for

transacting a purchase between a buyer and a seller using a computer-implemented system.

Auction-type web sites, such as eBay.com, have demonstrated a good deal of success by providing an online person-to-person trading forum over the Internet. These auction-type sites act primarily as a matchmaker between sellers and bidders. In general, a seller desiring to sell an item over the Internet lists the item on the web site. Along with a description of the item, the listing may include a picture of the item, a minimum bid, a time duration for the bidding process, etc. Potential buyers are then able to place bids on the item. A successful or winning bid for each item on sale is determined by various mechanism administered by the web site. Upon designation of a winning bid, the successful bidder (i.e., the buyer) receives instructions as to where they should send payment. Typically, the payment must be remitted in the form of a certified check to the seller. Upon receipt of the check, the seller ships the item to the buyer. Unfortunately, there is an inherent risk with this payment process that after receiving payment, the seller may ship an item which is in poor condition, ship an item which is inconsistent with the description of the item or never ship the item to the buyer.

Applicant's invention provides an improved method for transacting a purchase between a buyer and a seller over the Internet. Initial steps of the purchase transaction are similar to the auction process described above (see page 4, lines 5-18 of the present application). However, the purchase transaction is completed by using credit card account information from both the buyer and the seller (see page 6, line 21 thru page 7, line 10 of the present application). Specifically, Applicant's invention involves crediting

the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. Although current credit card clearinghouse regulations only permit credit transactions as "returns" (i.e., where a corresponding debit occurs on the seller's credit card account), Applicant's invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account.

VI. Issues

Does U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker) render Claims 1-11 unpatentable under 35 U.S.C. §103(a)?

VII. Grouping of Claims

In the present application, a first group of Claims 1-6 are directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system; whereas a second group of Claims 7-11 are directed to a computer-implemented purchasing system.

VIII. Arguments

Claims 1-11 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,202,051 (Woolston) and U.S. Patent No. 6,240,396 (Walker).

Woolston is generally directed to a computer-implemented system that enables sellers to auction items to one or more potential buyers via the Internet. As noted by the Examiner, Woolston discloses various techniques for transacting a purchase between a buyer and a seller. Payment to the seller is generally achieved using two step process:

(1) crediting an internally maintained account for the seller (e.g., see accounts 824 in Fig. 12); and (2) subsequently, cutting a check to the seller (e.g., see col. 19, lines 26-29). To the extent that such techniques involve the use of credit card accounts, Woolston only describes debiting a credit card account of the buyer (e.g., see col. 5, lines 20-24). In other words, Woolston does not teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller.

Applicant's further asserts that the step of crediting the credit card account of a seller is not an obvious extension of Woolston. Current credit card clearinghouse regulations only permit credit transactions as "returns", that is where a corresponding debit occurs on the seller's credit card account. Applicant's claimed invention calls for a credit transaction without the customary corresponding debit being present on the seller's credit card account. Thus, any reference to known credit card clearing techniques would not teach or suggest the step of crediting the seller's credit card account.

The Examiner then relies on Walker to teach a method for transacting a purchase which involves crediting the credit card account of the seller. Walker is directed generally to a method and system for facilitating the purchase of event tickets. In the Office Action dated March 12, 2002, the Examiner asserts that Walker teaches crediting the credit card account of the seller (e.g., see col. 14, lines 42-45).

However, Applicant notes that the step of crediting the seller's credit card account occurs only after a corresponding debit has been placed on the credit card account of the seller. The Board's attention is drawn to step 776 in Figure 7f of Walker. Prior to completing the transaction between the buyer and seller, a portion of the seller's credit is

reserved as a fraud deterrent in the event the seller fails to deliver the tickets to the buyer (see col. 12, lines 47-65). Subsequently, upon verification that the tickets have been surrendered by the seller to the buyer, the seller's credit card account is credited at step 798. In other words, Walker teaches crediting the seller's credit card account when a corresponding debit has been previously placed on the account in accordance with customary credit card clearing regulations. Applicant asserts that Walker does not teach or suggest the step of crediting the seller's credit card account without a corresponding debit.

Applicant's invention is similarly directed to a method for transacting a purchase between a buyer and a seller using a computer-implemented system. However, the purchase transaction is completed by using credit card account information from both the buyer and the seller. Specifically, Applicant's claimed invention involves crediting the sale amount (less any previously agreed upon transaction fee) to the credit card account of the seller. For instance, Claim 1 recites "transacting a purchase between the buyer and the seller using credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller" in combination with the other elements recited in the claim. Likewise, Claim 7 recites "said transaction manager being further operative to transact a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including crediting the credit card account of the seller" in combination with the other elements recited in the claim.

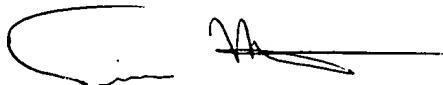
In sum, neither Woolston or Walker teach or suggest transacting a purchase that includes the step of crediting the credit card account of the seller. In view of known credit

card clearinghouse regulations, Applicant further asserts that the step of crediting the credit card account of a seller is not an obvious extension of either Woolston or Walker. Therefore, it is respectfully submitted that Claims 1 and 7, along with claims depending therefrom, defines patentable subject matter over Woolston and Walker.

IX. CONCLUSION

In view of the above-presented discussion, Applicants believe that the rejected claims are patentably distinguishable over the art cited by the Examiner. Accordingly, Applicant's respectfully request that this Board reverse the final rejection of Claims 1-11.

Respectfully submitted,



September 12, 2002

Timothy D. MacIntyre
Registration No. 42,824

HARNESS, DICKEY & PIERCE
P.O.Box 828
Troy, Michigan 48303
(248) 641-1600

TDM/mas
Attorney Docket No. 9204-000002

APPENDIX

X. Claims On Appeal

1. A method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system, the purchasing system having at least two computing devices interconnected by a network, comprising the steps of:

offering an item for sale through the use of a purchase transaction manager, said purchase transaction manager residing on a first computing device interconnected to the network;

providing credit card account information from the seller of said item to said purchase transaction manager;

receiving at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer;

determining a winning bid on said item by said purchase transaction manager, thereby identifying a buyer for said item; and

transacting a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including the step of crediting the credit card account of the seller.

2. The method of Claim 1 further comprises the step of providing transactional information for the item by the seller to said purchase transaction manager, where the transactional information includes a description of the item and a minimum bid amount for the item.

3. The method of Claim 1 wherein the credit account information is further defined as a credit card number and an expiration date.

4. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

5. The method of Claim 1 further comprising the step of shipping the item by the seller to the buyer after the step of transacting the purchase between the buyer and the seller.

6. The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

providing purchase transactional information to a purchase intermediary, the purchase transactional information includes credit card information for the buyer and the

seller;

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid;

crediting said amount to the seller's credit account; and

notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller.

7. A computer-implemented purchasing system for transacting a purchase between a buyer and a seller, the purchasing system having at least two computing devices interconnected by a network, comprising:

‘ a sellers application receptive of transactional information and residing on a first computing device, where the transactional information includes credit card account information for the seller;

a purchase transaction manager operative to offer said item for sale in response to receiving the transactional information from said sellers application, said purchase transaction manager residing on a second computing device and being interconnected to said sellers application by the network;

said purchase transaction manager receptive of at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer, and operative to determine a winning bid on said item,

thereby identifying a buyer for said item; and

 said purchase transaction manager being further operative to transact a purchase between the buyer and the seller using the credit card account information from the buyer and the seller, including crediting the credit card account of the seller.

8. The purchasing system of Claim 7 further comprising a buyers application receptive of bid information, where the buyers application resides on a third computing device and is interconnected to said purchase transaction manager by the network.

9. The purchasing system of Claim 7 wherein said transactional information from the seller further includes a description of the item and a minimum bid amount for the item.

10. The purchasing system of Claim 7 wherein said credit account information is further defined as a credit card number and an expiration date.

11. The purchasing system of Claim 7 further comprising a credit card clearinghouse receptive of credit card information from said purchase transaction manager, the credit card clearinghouse operative to debit the buyer's credit account an amount which is not less than the amount of the winning bid and to credit said amount to the seller's credit account.